

Effective 5/3/2023

Title 71A. Veterans and Military Affairs

**Chapter 1
Veterans and Military Affairs**

**Part 1
General Provisions**

71A-1-101 Veterans and Military Affairs -- Definitions.

As used in this title:

- (1) "Armed forces" means the same as that term is defined in Section 68-3-12.5.
- (2) "Contractor" means a person who is or may be awarded a government entity contract.
- (3) "Council" means the Veterans Advisory Council.
- (4) "Department" means the Department of Veterans and Military Affairs.
- (5) "Executive director" means the executive director of the Department of Veterans and Military Affairs.
- (6) "Government entity" means the state and any county, municipality, special district, special service district, and any other political subdivision or administrative unit of the state, including state institutions of education.
- (7) "Service member" means a currently serving member of the armed forces.
- (8) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.
- (9) "VA" means the United States Department of Veterans Affairs.
- (10) "Veteran" means the same as that term is defined in Section 68-3-12.5.
- (11) "Veterans service organization" means an organization or individual accredited by the VA Office of General Counsel or recognized by the department whose purpose is to serve service members and veterans, their spouses, surviving spouses, and children.

Amended by Chapter 16, 2023 General Session

Renumbered and Amended by Chapter 44, 2023 General Session

**Part 2
Department of Veterans and Military Affairs**

71A-1-201 Department of Veterans and Military Affairs -- Creation -- Appointment of executive director -- Department responsibilities.

- (1) There is created the Department of Veterans and Military Affairs.
- (2) The governor shall appoint an executive director for the department who is subject to Senate confirmation.
- (3) The executive director shall be a veteran.
- (4) The department shall:
 - (a) conduct and supervise all veteran and military affairs activities as provided in this title;
 - (b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title;
 - (c) in accordance with Section 41-1a-418:

- (i) determine which campaign or combat theater awards are eligible for a special group license plate;
 - (ii) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it; and
 - (iii) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies;
 - (d) maintain liaison with local, state, and federal veterans agencies and with Utah veterans organizations;
 - (e) provide current information to veterans, service members, their surviving spouses and family members, and Utah veterans and military organizations on benefits they are entitled to;
 - (f) assist veterans, service members, and their families in applying for benefits and services;
 - (g) cooperate with other state entities in the receipt of information to create and maintain a record of veterans in Utah;
 - (h) create and administer a veterans assistance registry in accordance with Chapter 5, Veterans Assistance Registry, with recommendations from the council, that provides contact information to the qualified donors of materials and labor for certain qualified recipients;
 - (i) identify military-related issues, challenges, and opportunities, and develop plans for addressing them;
 - (j) develop, coordinate, and maintain relationships with military leaders of Utah military installations, including the Utah National Guard;
 - (k) develop and maintain relationships with military-related organizations in Utah; and
 - (l) consult with municipalities and counties regarding compatible use plans as described in Sections 10-9a-537 and 17-27a-533.
- (5)
- (a) The department may award grants for the purpose of supporting veteran and military outreach, employment, education, healthcare, homelessness prevention, and recognition events.
 - (b) The department may award a grant described in Subsection (5)(a) to:
 - (i) an institution of higher education listed in Section 53B-1-102;
 - (ii) a nonprofit organization involved in veterans or military-related activities; or
 - (iii) a political subdivision of the state.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the administration of grants, including establishing:
 - (i) the form and process for submitting an application to the department;
 - (ii) the method and criteria for selecting a grant recipient;
 - (iii) the method and formula for determining a grant amount; and
 - (iv) the reporting requirements of a grant recipient.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules related to:
- (a) the consultation with municipalities and counties regarding compatible use plans as required in Subsection (4)(l); and
 - (b) criteria to evaluate whether a proposed land use is compatible with military operations.
- (7) Nothing in this chapter shall be construed as altering or preempting any provisions of Title 39A, National Guard and Militia Act, as specifically related to the Utah National Guard.

Enacted by Chapter 44, 2023 General Session

Amended by Chapter 154, 2023 General Session, (Coordination Clause)

71A-1-202 Department of Veterans and Military Affairs -- Executive director -- Responsibilities.

- (1) The executive director is the chief administrative officer of the department.
- (2) The executive director is responsible for:
 - (a) the administration and supervision of the department;
 - (b) the coordination of policies and program activities conducted through the department;
 - (c) the development and approval of the proposed budget of the department;
 - (d) preparing an annual report for presentation not later than November 30 of each year to the Government Operations Interim Committee which covers:
 - (i) services provided to veterans, service members, and their families;
 - (ii) services provided by third parties through the Veterans Assistance Registry;
 - (iii) coordination of veterans services by government entities with the department; and
 - (iv) the status of military missions within the state;
 - (e) advising the governor on matters pertaining to veterans and military affairs throughout the state, including active duty service members, reserve duty service members, veterans, and their families;
 - (f) developing, coordinating, and maintaining relationships with Utah's congressional delegation and appropriate federal agencies; and
 - (g) entering into grants, contracts, agreements, and interagency transfers necessary to support the department's programs.
- (3) The executive director may appoint deputy directors to assist the executive director in carrying out the department's responsibilities.
- (4) A deputy director, described in Subsection (3), of veterans' services shall be a veteran.

71A-1-203 Wind turbine and wind energy facility siting -- Military Aviation and Installation Assurance Siting Clearinghouse.

- (1) As used in this section:
 - (a) "Clearinghouse" means the Military Aviation and Installation Assurance Siting Clearinghouse established by the United States Secretary of Defense under 10 U.S.C. Sec. 183(a).
 - (b)
 - (i) "Commencement of construction" means beginning excavation of wind turbine foundations or other actions relating to the actual erection and installation of commercial wind energy equipment.
 - (ii) "Commencement of construction" does not include activities related to:
 - (A) the erection of meteorological towers;
 - (B) environmental assessments;
 - (C) surveys;
 - (D) preliminary engineering; or
 - (E) assessments of the development of the wind resources on a given parcel of property.
 - (c) "Determination of no hazard" means the formal response issued by the FAA upon completion of an aeronautical study regarding a facility structure's impact to air navigation affirming that:
 - (i) the facility structure does not exceed obstruction standards; and
 - (ii) modifications to the facility structure are not required.
 - (d) "FAA" means the United States Federal Aviation Administration.
 - (e) "Facility structure" means a wind turbine or other structure located on a wind energy facility, the construction or modification of which would require the completion of Form 7460-1.
 - (f) "Form 7460-1" means:

- (i) FAA Form 7460-1, Notice of Proposed Construction or Alteration, which the FAA uses to conduct aeronautical studies to promote air safety and the efficient use of navigable airspace, as required under 14 C.F.R. Part 77; or
- (ii) a form designated by the FAA to conduct aeronautical studies to promote air safety and the efficient use of navigable airspace.
- (g) "Mission compatibility certification letter" means the formal response the clearinghouse issues through the clearinghouse's review of proposed projects and facility structures through the clearinghouse's evaluation process.
- (h) "Owner" means a person having a majority equity interest in a commercial wind energy facility.
- (i)
 - (i) "Wind energy facility" means an electrical generation consisting of one or more wind turbines under common ownership or operating control.
 - (ii) "Wind energy facility" includes the infrastructure necessary to support the generation of electricity by one or more wind turbines, including:
 - (A) substations;
 - (B) meteorological data towers;
 - (C) aboveground and underground electrical transmission lines;
 - (D) transformers;
 - (E) control systems; and
 - (F) other structures used to support the operation of the facility with the primary purpose of supplying electricity to an off-site customer.
- (j)
 - (i) "Wind turbine" means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator.
 - (ii) "Wind turbine" includes the turbine, blade, tower, base, and pad transformer.
- (2) Construction or modification of a facility structure may not encroach upon or otherwise have an adverse impact on the mission, training, or operations of any military installation or branch of the military as determined by the clearinghouse and the FAA.
- (3) An adverse impact to a military installation or branch of the military in Subsection (2) includes an adverse impact to:
 - (a) a military training route;
 - (b) a drop zone;
 - (c) an approach to a runway;
 - (d) a test or training range;
 - (e) a military installation or facility;
 - (f) United States Department of Defense special use air space; and
 - (g) United States Department of Defense spectral requirements.
- (4)
 - (a) A facility structure may not be constructed or expanded unless:
 - (i) there is an active determination of no hazard; or
 - (ii) any adverse impacts to the United States Department of Defense, determined in accordance with 32 C.F.R. Sec. 211.6, or the National Defense Authorization Act have been resolved as evidenced by documentation from the clearinghouse for the facility structure and the department.
 - (b) For purposes of Subsection (4)(a)(ii), a mission compatibility certification letter may serve as evidence that the wind facility has resolved adverse impacts with the United States Department of Defense or successor agency.

- (5)
 - (a) Before expanding or constructing a facility structure, and within 30 days of submitting an application to the FAA, an owner shall file a copy of the FAA application with the department.
 - (b) Within 15 days of receiving a copy of the FAA application to construct a wind energy site, the department will provide a copy of the application to the Department of Natural Resources and the affected military entities.
 - (c) The department may serve in a coordination role with the owner, the Department of Natural Resources, and the affected military entity.
- (6) Within 30 days of receiving final notification from the FAA or a Notice of Presumed Risk from the Department of Defense the owner shall provide the department a copy of the documentation as well as:
 - (a) any determination of no hazard the owner receives related to the facility structure;
 - (b) any documentation the owner receives from the clearinghouse referring to any resolution of adverse impacts created by the facility structure; and
 - (c) any documentation the owner receives from the department demonstrating a determination of no impact or no hazard.
- (7) The requirements under this section may not prohibit the construction of a facility structure if the facility structure has received a determination of no hazard or mitigation plan before May 1, 2024.
- (8)
 - (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this section.
 - (b) The documentation an owner submits in accordance with Subsections (5) and (6):
 - (i) shall only be used and disclosed by the department in accordance with this section;
 - (ii) is confidential, not public, and not open to public inspection; and
 - (iii) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.
- (9) If an owner fails to submit the documentation described in Subsections (5) and (6) for an individual facility structure:
 - (a) the department may charge the owner an administrative penalty not to exceed \$1,500 per day, per violation; and
 - (b) a stakeholder, including the department, may bring an action in court to:
 - (i) enjoin any action on a facility structure in violation of this section; and
 - (ii) enforce the requirements of this section.

Enacted by Chapter 43, 2024 General Session

Part 3 Veterans Advisory Council

71A-1-301 Veterans Advisory Council -- Membership -- Duties and responsibilities -- Per diem and travel expenses.

- (1) There is created a Veterans Advisory Council whose purpose is to advise the executive director of the Department of Veterans and Military Affairs on issues relating to veterans.
- (2) The council shall consist of the following 14 members:
 - (a) 11 voting members to serve four-year terms:
 - (i) seven veterans at large appointed by the governor;

- (ii) the commander or the commander's designee, whose terms shall last for as long as they hold that office, from each of the following organizations:
 - (A) Veterans of Foreign Wars;
 - (B) American Legion; and
 - (C) Disabled American Veterans; and
- (iii) a representative from the Office of the Governor; and
- (b) three nonvoting members:
 - (i) the executive director;
 - (ii) the director of the VA Health Care System or the director's designee; and
 - (iii) the director of the VA Benefits Administration Regional Office in Salt Lake City, or the director's designee.
- (3)
 - (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new or reappointed member to a four-year term commencing on July 1.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the members appointed by the governor are appointed every two years.
- (4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term within 60 days of receiving notice.
- (5) Members appointed by the governor may not serve more than three consecutive terms.
- (6)
 - (a) Any veterans group or veteran may provide the executive director with a list of recommendations for members on the council.
 - (b) The executive director shall provide the governor with the list of recommendations for members to be appointed to the council.
 - (c) The governor shall make final appointments to the council by June 30 of any year in which appointments are to be made under this chapter.
- (7) The council shall elect a chair and vice chair from among the council members every two years. The chair and vice chair shall each be a veteran.
- (8)
 - (a) The council shall meet at least once every quarter.
 - (b) The executive director of the Department of Veterans and Military Affairs may convene additional meetings, as necessary.
- (9) The department shall provide staff to the council.
- (10) Six voting members are a quorum for the transaction of business.
- (11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 33, 2023 General Session

Renumbered and Amended by Chapter 44, 2023 General Session

71A-1-302 Veterans Advisory Council -- Duties and responsibilities.

The council shall:

- (1) solicit input concerning veterans issues from veterans groups throughout the state;
- (2) report issues received to the executive director and make recommendations concerning them;
- (3) keep abreast of federal developments that affect veterans locally and advise the executive director of them;
- (4) approve, by a majority vote, the use of money generated from veterans license plates under Section 41-1a-422 for veterans programs; and
- (5) assist the director in developing guidelines and qualifications for:
 - (a) participation by donors and recipients in the Veterans Assistance Registry created in Section 71A-5-102; and
 - (b) the process for providing contact information between qualified donors and recipients.

Enacted by Chapter 44, 2023 General Session

Chapter 2 Veterans Preference

71A-2-101 Veterans' preference -- Definitions.

- (1) As used in this chapter:
 - (a) "Government entity" means the state, any county, municipality, special district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education.
 - (b) "Individual with a disability" means a veteran or service member who has established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a public statute administered by the VA or a military department.
 - (c) "Preference eligible" means:
 - (i) any individual who is a veteran or service member;
 - (ii) an individual with a disability, regardless of the percentage of disability;
 - (iii) the spouse or surviving spouse of a veteran or service member;
 - (iv) a purple heart recipient; or
 - (v) a retired member of the armed forces.
- (2) Terms defined in Section 71A-1-101 apply to this chapter.

71A-2-102 Veterans preference.

- (1) Each government entity shall grant a veterans preference upon initial application to each preference eligible individual according to the procedures and requirements of this chapter.
- (2) The personnel or human resource officer of any government entity shall add to the score of a preference eligible who receives a passing score on an examination, or any rating or ranking mechanism used in selecting an individual for any career service position with the government entity:
 - (a) 5% of the total possible score, if the preference eligible is a veteran or service member;
 - (b) 10% of the total possible score, if the preference eligible is a veteran or service member with a disability or a purple heart recipient; or

- (c) in the case of a preference eligible spouse or surviving spouse, the same percentage the qualifying veteran or service member is, or would have been, entitled to.
- (3) A preference eligible who applies for a position that does not require an examination, or where examination results are other than a numeric score, shall be given preference in interviewing for the position.
- (4) Preference eligibility shall be added to a minimum of one step in the process.
- (5) The granting of a veterans preference by a government entity in accordance with this chapter is not a violation of:
 - (a) Title 34A, Chapter 5, Utah Antidiscrimination Act; or
 - (b) any other state or local equal employment opportunity law.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-2-103 Veterans preference -- Willful failure to give preference a misdemeanor.

- (1) An officer, agent, or representative of a government entity who is charged with employment of people may not willfully fail to give preference as provided in this chapter.
- (2) Willful failure to extend veterans preference to an applicant is a class B misdemeanor.

Renumbered and Amended by Chapter 44, 2023 General Session

Chapter 3

Veterans Service Organizations Assistance Contracts

71A-3-101 Veterans service organizations assistance contracts -- Contract to provide assistance to service members, veterans and their spouses, surviving spouses, and children.

The department is authorized to contract with a veterans service organization organized in this state to provide, especially in the outlying areas of the state, assistance to service members, veterans, their spouses, surviving spouses, and children as follows:

- (1) disseminate information regarding all laws applicable in the preparation, presentation, and prosecution of claims against the United States arising by reason of service in the uniformed services;
- (2) assist in the establishment of all rights and the procurement of all benefits which may accrue to eligible individuals under the laws of this state or of the United States;
- (3) cooperate with any and all agencies and instrumentalities of this state or of the United States having to do with employment or reemployment;
- (4) cooperate with any and all agencies and instrumentalities of this state or of the United States and make a representative and information available on a rotating basis in the outlying areas of the state;
- (5) assist eligible individuals in obtaining any preference for employment authorized by the laws of this state or of the United States; and
- (6) assist eligible individuals in obtaining emergency relief, and cooperate with any agencies and instrumentalities of this state or of the United States established for the purpose of extending emergency relief.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-3-102 Veterans service organizations assistance contracts -- Contracts subject to appropriation of funds.

Any contract entered into under Section 71A-3-101 shall expressly state that it is subject to the appropriation of sufficient funds by the Legislature to carry out its terms and that the decision of the executive director as to whether an appropriation is sufficient to carry out the terms of the contract is conclusive.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-3-103 Veterans service organizations assistance contracts -- Attorney general to represent state concerning contracts.

The attorney general shall represent the state in all proceedings involving any contract entered into under Section 71A-3-101, and shall provide any legal assistance necessary in carrying out the provisions of that section.

Renumbered and Amended by Chapter 44, 2023 General Session

**Chapter 4
Veterans Benefits Application Assistance Act**

71A-4-101 Veterans Benefits Application Assistance Act -- Definitions.

(1) As used in this chapter:

- (a) "Accredited" means a veterans service organization representative, agent, or attorney to whom authority has been granted by the VA to provide assistance to claimants in the preparation, presentation, and prosecution of claims for VA benefits.
- (b) "Assistance" means an accredited individual providing claimant-specific recommendations or preparing or submitting an application for VA benefits on behalf of a claimant.
- (c) "Certify" means to submit in writing to a veteran or the veteran's dependents certain disclosure forms provided by the department.
- (d) "Claimant" means a person who has filed or has expressed to a service organization representative, agent, or attorney an intention to file a written application for determination of entitlement to benefits provided under United States Code, Title 38, and implementing directives.
- (e) "Non-compliant referral" means referring a veteran's or a veteran's dependent's original claim for veteran benefits for assistance to an individual who is in violation of the provisions of this chapter.
- (f) "Referring entity" means an individual, business, or organization licensed in this state who refers or assists a veteran or a veteran's dependents for assistance with an original claim for veteran benefits.
- (g) "VA benefits" means any payment, service, commodity, function, or status entitlement which is determined under laws administered by the VA pertaining to veterans, dependents, and survivors as well as other potential beneficiaries under United States Code, Title 38.
- (h) "Veteran" includes all eligible dependents.

(2) Terms defined in Section 71A-1-101 apply to this chapter.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-4-102 Veterans Benefits Application Assistance Act -- Disclosure requirement for assisting a claimant.

- (1) Each individual offering to assist veterans in applying for benefits shall:
 - (a) be accredited, in compliance with the provisions of C.F.R., Title 38, Pensions, Bonuses, and Veterans' Relief, or, if under the supervision of an accredited attorney meet the provisions of C.F.R., Title 38, pertaining to authorized claim representation under an attorney; and
 - (b) disclose in writing, in a format approved by the department that the claimant can retain, the federal laws, regulations, and rules governing assistance for VA benefits.
- (2) The disclosure required by Subsection (1)(b) shall specifically include:
 - (a) the individual's:
 - (i) name;
 - (ii) business address;
 - (iii) business phone number; and
 - (iv) the registration number from the VA;
 - (b) a statement of the claimant's rights regarding the assistance for VA benefits, including that there is no charge to the claimant or a member of the claimant's family for assistance with the initial benefits application; and
 - (c) a statement that if, as a result of the individual providing assistance for a claim, income is accrued to the assisting individual from the sale of a product or other services to the claimant, the income is both justified and reasonable as compared with income from similar products and services available in the state.
- (3) No provisions of the form may be struck out or designated as nonapplicable.
- (4) Disclosure forms, when completed, shall be:
 - (a) signed by both the individual providing assistance and the claimant; and
 - (b) retained for three years by the assisting individual.
- (5) Copies of the disclosure form shall be provided to:
 - (a) the veteran on the day the form is completed and signed; and
 - (b) the department within five working days.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-4-103 Veterans Benefits Application Assistance Act -- Education requirements.

- (1) All individuals and attorneys providing assistance to a veteran shall complete three hours of qualifying education as specified in 38 C.F.R. 14.629(b) during the first 12 month period following the date of initial accreditation.
- (2) An additional three hours of qualifying continuing education shall be completed every two years following the initial 12-month period.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-4-104 Veterans Benefits Application Assistance Act -- Department responsibilities -- Notification -- Assistance -- Complaints -- Claimant responsibilities.

- (1) The department shall notify in writing each veteran for whom the department has contact information that any individual or business offering to assist veterans in applying for benefits shall disclose in writing to the veteran the following:

- (a) 38 C.F.R. 14.629 and 38 C.F.R. 14.630 require that any individual providing assistance be accredited by the VA;
 - (b) federal law restricts charging a veteran a fee for assisting in the initial application for VA benefits; and
 - (c) the department's website has a list with contact information of VA accredited claim representatives.
- (2) Beginning July 1, 2015, and every three years after the department shall:
- (a) notify the Insurance Department regarding the federal law governing assistance for VA benefits, and the Insurance Department shall notify all individual producers and consultants licensed by the Insurance Department at the time of initial licensing and upon license renewal of those same federal laws governing assistance for VA benefits;
 - (b) contact the Utah State Bar regarding federal law governing legal assistance for claimants applying for benefits and request that the association provide continuing legal education on federal laws governing assistance; and
 - (c) notify the Department of Health and Human Services regarding federal law governing the assistance for claimants applying for benefits, and require the Department of Health and Human Services to notify all assisted living and nursing care facilities of those federal laws.
- (3) The executive director may establish procedures for processing complaints related to assistance regarding a claim for VA benefits.
- (4) For violations by accredited or non-accredited individuals who offer assistance with VA benefits, the executive director may audit selected assisting individuals and referring entities for compliance with this chapter and federal laws which govern the provision of assistance to claimants.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-4-105 Veterans Benefits Application Assistance Act -- Exempt organizations.

Accredited representatives of the following organizations are exempt from the provisions of this chapter:

- (1) American Legion;
- (2) Veterans of Foreign Wars;
- (3) Disabled American Veterans;
- (4) Vietnam Veterans of America;
- (5) American Veterans (AMVET);
- (6) Military Order of the Purple Heart; and
- (7) other VA recognized service organizations or individuals as determined by the executive director.

Renumbered and Amended by Chapter 44, 2023 General Session

Chapter 5
Veterans Assistance Registry

71A-5-101 Veterans Assistance Registry -- Definitions.

- (1) As used in this chapter:

- (a) "Donor" means an individual or entity that provides material goods, services, or labor without charge to veterans in accordance with this chapter.
 - (b) "Recipient" means a veteran as defined in Section 68-3-12.5, or a veteran's dependent spouse and children.
- (2) Terms defined in Section 71A-1-101 apply to this chapter.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-5-102 Veterans Assistance Registry.

- (1) There is created within the department a Veterans Assistance Registry.
- (2) The intent of the registry is to provide contact information to qualified donors of material goods, services, and labor for qualified recipients in need of specific goods, services, or labor.
- (3) The department shall, in consultation with the council:
 - (a) create a database of donors and recipients;
 - (b) develop an electronic link on the department's website to the database of donors and recipients;
 - (c) insure that information provided by donors and recipients is only used for the intended purpose as specified in Subsection (2) and not made public;
 - (d) provide instructions online for donors and recipients to use in registering for the registry;
 - (e) publicize through both local and nationwide veterans service organizations and the VA the availability of the registry; and
 - (f) track usage of and report annually on the registry program in accordance with Section 71A-1-202.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-5-103 Immunity for use of registry.

A donor who provides material goods, services, or labor for registry recipients is considered to be acting on behalf of the department in accordance with the provisions of Title 63G, Chapter 8, Part 2, Immunity for Voluntary Services.

Renumbered and Amended by Chapter 44, 2023 General Session

Chapter 6 State Veterans Nursing Home

71A-6-101 State Veterans Nursing Home -- Definitions.

- (1) As used in this chapter:
 - (a) "Administrator" means a state veterans nursing home administrator selected in accordance with Section 71A-6-103.
 - (b) "Board" means any state veterans nursing home advisory board.
 - (c) "Home" means any state veterans nursing home.
- (2) Terms defined in Section 71A-1-101 apply to this chapter.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-6-102 State Veterans Nursing Home -- Establishment and construction -- Compliance with federal requirements.

- (1) The department shall be responsible for the administration and operation of state veterans nursing homes established by the Legislature, which may include contracting with a private health care provider to operate and manage each home.
- (2) Each home shall:
 - (a) have at least an 80-bed capacity;
 - (b) be designed and constructed consistent with the requirements for federal funding under 38 U.S.C. Sec. 8131 et seq.; and
 - (c) be operated consistent with the requirements for per diem payments from the VA under 38 U.S.C. Sec. 1741 et seq.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-6-103 State veterans nursing home -- Operation of homes -- Rulemaking authority -- Selection of administrator.

- (1) The department shall, subject to the approval of the executive director:
 - (a) establish appropriate criteria for the admission and discharge of residents for each home, subject to the requirements in Section 71A-6-104 and criteria set by the VA;
 - (b) establish a schedule of charges for each home in cases where residents have available resources;
 - (c) establish standards for the operation of the homes not inconsistent with standards set by the VA;
 - (d) make rules to implement this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (e) ensure that the homes are licensed in accordance with Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, and 38 U.S.C. Sec. 1742(a).
- (2) The department shall:
 - (a) appoint an administrator for each home; or
 - (b) approve the individual selected by the contract health care provider as the administrator at each home.

Renumbered and Amended by Chapter 44, 2023 General Session

Amended by Chapter 330, 2023 General Session

71A-6-104 State veterans nursing home -- Eligibility -- Admission requirements.

- (1) Application for admission shall be made separately to each nursing home administrator.
- (2) Veterans and their spouses or surviving spouses who are residents of Utah or who demonstrate intent to establish residency in Utah within six months of applying for admission, meet federal eligibility requirements, and are in need of nursing home care may be admitted to any home.
- (3) Preference shall be given to veterans who are without adequate means of support and unable, due to wounds, disease, old age, or infirmity, to properly maintain themselves.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-6-105 Veterans nursing home -- Advisory boards.

- (1) Each home shall have a nursing home advisory board to act as a liaison between the residents, members of the public, and the administration of the home.
- (2) Each board shall consist of at least seven, but no more than 11, members appointed as follows by the executive director:
 - (a) one appointee of the Resident Council of the specific veterans nursing home;
 - (b) three veterans from the geographic area in which the veterans nursing home is located;
 - (c) one medical professional experienced in veteran nursing home quality of care issues;
 - (d) three at-large members with an interest in the success of veterans nursing homes; and
 - (e) one member each from:
 - (i) the American Legion;
 - (ii) Disabled American Veterans; and
 - (iii) the Veterans of Foreign Wars.
- (3)
 - (a)
 - (i) Members shall serve four-year terms.
 - (ii) Except as required by Subsection (3)(b), as terms of current board members expire, the executive director shall appoint each new or reappointed member to a four-year term beginning on July 1.
 - (b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) The executive director shall make final appointments to the board by June 30 of any year in which appointments are to be made under this chapter.
- (4) Vacancies not including the Resident Council representative shall be filled by the executive director within 60 days of receiving notice of a vacancy, but only for the unexpired term of the vacated member.
- (5) Members may not serve more than two consecutive terms.
- (6) Each board shall elect a chair annually from among its members at its first meeting after July 1.
- (7) Each board shall meet at least quarterly.
- (8) A majority of the members of the board present constitute a quorum for the transaction of business.
- (9) Each board shall provide copies of all minutes of each meeting to the department within 14 days of approval.
- (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-6-106 State Veterans Nursing Home Fund.

- (1) There is created an expendable special revenue fund entitled the "Utah State Veterans Nursing Home Fund" to be administered by the department for the benefit of each home and its residents.
- (2) All cash donations, gifts, or bequests shall be deposited in the fund and used according to the wishes of the donor.

- (3) All funds received by the homes from federal or state agencies, individual insurance reimbursement, or cash payments shall be deposited in the fund.
- (4) Funds received that are designated for a specific home shall be accounted for separately within the fund.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-6-107 State veterans nursing home -- Disposition of deceased resident's property.

- (1)
 - (a) All money or other personal property of a resident held by a home that is left on the premises of the home shall, upon the death of the resident, be held in trust to be paid or delivered to the spouse, children, grandchildren, or parent of the resident upon the presentation of proof of relationship.
 - (b) Any funds of a deceased resident may be disbursed for the payment of funeral expenses or any obligation owed to the home.
- (2) Property owned by a deceased resident of the home who dies without heirs or next-of-kin not disposed of by will shall become the property of the home and deposited in the fund, subject to the right of any heir to reclaim the property within five years after the resident's death upon the presentation of proof of relationship.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-6-108 State veterans nursing home -- Hobby promotion -- Sales of articles manufactured by residents -- Proceeds to residents.

- (1) Each home shall promote hobbies designed to improve the general welfare and mental condition of the residents.
- (2) The home may provide limited funds to initiate a hobby program, but shall limit the program to those hobbies that, in its judgment, will be self sustaining.
- (3) The department may enter into contracts with federal or state agencies or private concerns for the receipt of articles manufactured by residents of the homes.
- (4) Proceeds generated by hobbies shall be used to pay for materials. Any excess proceeds shall be paid to the individual veterans who produced the articles.

Renumbered and Amended by Chapter 44, 2023 General Session

**Chapter 7
Veterans Memorials and Cemeteries**

**Part 1
Memorials**

71A-7-101 Memorials by cities and towns.

- (1) The boards of city commissioners, city councils, and town boards, respectively, may appropriate from any fund of the city or town available for general purposes amounts considered expedient for the purpose of erecting or contributing to the erection of a memorial

to commemorate the achievements of uniformed service members and veterans of the state within their respective cities or towns.

- (2) The city commissioners, city council, or town board may, when authorized by the qualified electors of the city or town, issue general obligation bonds and devote the proceeds to the erection of memorials.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-7-102 Memorials by counties.

- (1) The county legislative body of the several counties may raise and maintain, appropriate money for, and contribute to the building and maintenance of, memorials to the memory of veterans of any wars in which the United States of America participated.
- (2) Memorials may be in the form of grave adornments, public buildings, monuments, recreational areas and facilities, parks, and public places.
- (3) A county legislative body may not erect and maintain, assist in, or contribute to, the erection or maintenance of any memorial which is outside of the boundaries of the county.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-7-103 County tax for memorials.

The county legislative body may levy and collect an annual tax upon property situated within the county to raise funds for memorials under this part.

Renumbered and Amended by Chapter 44, 2023 General Session

**Part 2
Veteran Burials**

71A-7-201 Veteran burials -- Veterans not to be buried in ground used for paupers.

The body of an individual who dies while in the military service of the United States of America during any period of war, police action, or other period of national emergency, or the body of any veteran of the military service of the United States of America who served during any war, police action, or other period of national emergency, may not be buried in any portion of any cemetery or burial ground used for the burial of paupers.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-7-202 Veteran burials -- Political subdivisions may provide proper burial sites.

Municipalities, towns, counties, or other political subdivisions of the state may grant burial sites to chartered veterans organizations without financial consideration or may provide a proper site for the burial of any persons covered by this chapter without financial consideration.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-7-203 Veteran burials -- Veterans Remains Organization -- Funeral service establishments -- Liability -- State agency -- Responsibilities.

- (1) As used in this section:
 - (a) "Remains facility" means the same as a funeral service establishment defined in Section 58-9-102.
 - (b) "Status information" means a veteran or a veteran's dependent's name, date of birth, place of birth, date of death, Social Security number, military service number, branch of service, and military rank on date of death.
 - (c) "Veterans Remains Organization" means an entity recognized and authorized by the United States Veterans Administration and the National Personnel Records Center to verify and inter the unclaimed cremated remains of United States military veterans or a veteran's dependents.
- (2) A veterans remains organization may contact a remains facility for the purpose of identifying any unclaimed cremated remains of a military veteran or a veteran's dependent.
 - (a) Upon contact with the remains facility, the organization shall:
 - (i) provide identifying documentation to the remains facility; and
 - (ii) with the permission of the remains facility, inventory any unclaimed cremated remains in order to identify any remains of a veteran or a veteran's dependent.
 - (b) The organization shall contact the National Personnel Records Center to determine if any of the unclaimed cremated remains are:
 - (i) a veteran's or a veteran's dependent's remains; and
 - (ii) eligible for interment benefits.
 - (c) The organization shall claim any unclaimed cremated remains from a remains facility upon providing the facility with proof that the remains are those of a veteran or a veteran's dependent and are eligible for interment benefits.
 - (d) The organization shall make arrangements to inter the remains.
- (3) A remains facility:
 - (a) may allow a veterans remains organization, upon presentation of identification, to inventory unclaimed cremated remains;
 - (b) shall provide all status information in the remains facility's possession to a veterans remains organization;
 - (c) shall release any unclaimed cremated remains to a veterans remains organization upon presentation of documentation that the remains are of a veteran or a veteran's dependent who is eligible for burial in a state or national cemetery; and
 - (d) is not subject to civil liability for release of status information or release of the unclaimed cremated remains following the presentation of documentation indicating the remains are those of a veteran or a veteran's dependent and eligible for interment benefits.
- (4) The department shall, upon presentation of documentation that certain cremated remains in the possession of a veterans remains organization are those of a veteran or a veteran's dependent and eligible for interment benefits:
 - (a) authorize the interment of the cremated remains in a state veterans cemetery; and
 - (b) provide assistance to the veterans remains organization in the interment process.

Renumbered and Amended by Chapter 44, 2023 General Session

Part 3 Veterans Cemeteries

71A-7-301 Veterans cemeteries -- Development, operation, and maintenance -- Responsibilities of Department -- Costs.

- (1) The department shall develop, operate, and maintain veterans cemeteries.
- (2) To help pay the costs of developing, constructing, operating, and maintaining veterans cemeteries, the department may:
 - (a) receive federal funds by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act;
 - (b) receive state funds, contributions from veterans organizations, and other private donations; and
 - (c) charge fees for at least the cost of the burial of a veteran's spouse and any other persons, who the department determines is eligible to be buried in a veterans cemetery established by the state.

Renumbered and Amended by Chapter 44, 2023 General Session

**Chapter 8
Employees in Military Service**

71A-8-101 Public officers and employees in military service -- Not to be prejudiced thereby -- Refusal to reinstate -- Procedure -- Motion -- Hearing and determination.

- (1) As used in this chapter, "public officer" means the same as that term is defined in Section 67-16-3.
- (2) A public officer who enters state or federal active service in any branch of the armed forces of this state or of the United States shall be granted a leave of absence not to exceed five years during that service.
- (3)
 - (a) A person entitled to a leave of absence under this section shall be restored to the same position, or to a position equivalent to the same position, which the person held immediately prior to the commencement of active military service.
 - (b) A request for restoration of employment under this section must be submitted within 40 days after release from active service.
 - (c) Restoration of employment shall be made within 20 days after submission of the request to the employer.
 - (d) A person returning from active military service may not, without cause, be discharged or subjected to reduction of compensation for a period of one year following a return to employment under this section.
- (4) A person returning to employment under this section:
 - (a) shall retain all personal, sick, and other leave to which the person was entitled immediately prior to the commencement of active military service;
 - (b) shall receive and earn benefits and compensation at a level not less than that to which the person would have been entitled had the officer or employee not been absent due to active military service; and
 - (c) may not be prejudiced, by the preservice employer or that employer's successor in interest, as to employment, appointment, reappointment, reemployment, or promotion by reason of the employee's active military service.

- (5)
 - (a) A public officer may not be required to resign from, vacate, or forfeit a governmental office or position as a consequence of entering into active military service.
 - (b) A person in active military service is not considered to be holding an office or position of trust or employment under the United States government for purposes of determining whether that person is disqualified or prohibited from retaining a position or serving as a public officer.
 - (c) Nothing in this section shall serve to extend a period of employment or term of office beyond that to which the affected person was elected or appointed. A person who is a legislator or public officer for a specific term by virtue of election or appointment is entitled to a leave of absence under this section for a period not to exceed the applicable term.
- (6) A person denied restoration of employment or benefits given under this chapter may petition the district court of the county in which the person resides, or in which the denial occurs, to require the public employer to comply with the provisions of this section without delay. Fees or court costs may not be assessed against the petitioner. The court shall order a speedy hearing in the case and advance it on the calendar so far as reasonably possible. If the court determines that the petitioner is entitled to relief, the court shall order all appropriate relief, to include compensation for loss of wages and benefits and an award of attorneys' fees and costs.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-8-102 Employees in military service -- Government employees in United States armed forces or National Guard -- Pay allowance for time spent on duty -- Deduction of vacation time prohibited.

- (1) All state employees who are members of the organized reserve of the United States armed forces, including the National Guard of this state, shall be allowed full pay for all time not in excess of 15 days per year spent fulfilling the service requirements of the armed forces of the United States, including the National Guard of this state. This leave shall be in addition to any annual vacation leave with pay to which an employee may be entitled.
- (2) County and municipal employees who are members of the organized reserve of the United States armed forces, including the National Guard of this state, may be allowed up to full pay for all time not in excess of 15 days per year spent fulfilling the service requirements of the armed forces of the United States, including the National Guard of this state. This leave is at the discretion of the employing county or municipality and, if granted, shall be in addition to annual vacation leave with pay.
- (3) The governor, counties, and municipal agencies may adopt ordinances, exceptions, rules, or policies that:
 - (a) provide more than 15 days of paid military leave;
 - (b) provide for differential pay that compensates the difference, if any, between the service member's civilian pay and military pay, not to include allowances; and
 - (c) extend health, dental, vision, disability, and life insurance benefits to members of the National Guard and reserves activated for more than 30 days.

Renumbered and Amended by Chapter 44, 2023 General Session

Effective until 7/1/2024

71A-8-103 Employees in military service -- Extension of licenses for deployed service members and members of National Guard and reservists ordered to active duty.

- (1) As used in this section, "license" means:
 - (a) any license issued under Title 58, Occupations and Professions; and
 - (b) a license for emergency medical personnel.
- (2) A license held by a member of the National Guard or reserve component of the armed forces that expires while the member is on state or federal active duty is extended until 90 days after the member is discharged from active duty status.
- (3) A license held by a service member that expires while the member is deployed is extended for 90 days after the last date of the deployment listed on the service member's deployment order.
- (4) The licensing agency shall renew a license extended under Subsection (2) or (3) until the next date that the license expires or for the period that the license is normally issued, at no cost to the service member, member of the National Guard, or reserve component of the armed forces if all of the following conditions are met:
 - (a) the service member, National Guard member, or reservist requests renewal of the license within 90 days after the termination date of the activation or deployment orders;
 - (b) the service member, National Guard member, or reservist provides the licensing agency with a copy of the individual's official orders calling the member or reservist to active duty or deployment, and official orders discharging the member or reservist from active duty or deployment; and
 - (c) the service member, the National Guard member, or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.
- (5) The provisions of this section do not apply to:
 - (a) regularly scheduled annual training;
 - (b) in-state active National Guard and reserve orders; or
 - (c) orders that do not require the service member to relocate outside of this state.

Amended by Chapter 185, 2024 General Session

Amended by Chapter 381, 2024 General Session

Effective 7/1/2024

71A-8-103 Extension of licenses for members of National Guard and reservists ordered to active duty .

- (1) As used in this section, "license" means:
 - (a) any license issued under Title 58, Occupations and Professions; and
 - (b) a license for emergency medical personnel.
- (2) A license held by a member of the National Guard or reserve component of the armed forces that expires while the member is on state or federal active duty is extended until 90 days after the member is discharged from active duty status.
- (3) A license held by a service member that expires while the member is deployed is extended for 90 days after the last date of the deployment listed on the service member's deployment order.
- (4) The licensing agency shall renew a license extended under Subsection (2) or (3) until the next date that the license expires or for the period that the license is normally issued, at no cost to the service member, member of the National Guard, or reserve component of the armed forces if all of the following conditions are met:
 - (a) the service member, National Guard member, or reservist requests renewal of the license within 90 days after the termination date of the activation or deployment orders;
 - (b) the service member, National Guard member, or reservist provides the licensing agency with a copy of the individual's official orders calling the member or reservist to active duty

- or deployment, and official orders discharging the member or reservist from active duty or deployment; and
 - (c) the service member, the National Guard member, or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.
- (5) The provisions of this section do not apply:
- (a) to regularly scheduled annual training;
 - (b) in-state active National Guard and reserve orders; or
 - (c) orders that do not require the service member to relocate outside of this state.

71A-8-104 Employees in military service -- Professional liability protection for certain persons ordered to active duty in the armed forces.

- (1) This section applies to a person who:
- (a) is ordered to state or federal military service, other than training; and
 - (b) immediately before receiving the order to military service:
 - (i) was engaged in the furnishing of health-care services or other services determined by rule to be professional services; and
 - (ii) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to the service member during the period of the service member's active duty unless the premiums are paid for coverage for that period.
- (2) Coverage of a person referred to in Subsection (1) by a professional liability insurance policy shall be suspended by the insurance carrier in accordance with Subsection (3) upon receipt of a written request by the service member.
- (3) A professional liability insurance carrier:
- (a) may not require that premiums be paid by or on behalf of a service member for any professional liability insurance coverage suspended pursuant to Subsection (2); and
 - (b) shall refund any amount paid for coverage for the period of the suspension or, upon the election of the service member, apply the amount for the payment of any premium becoming due upon the reinstatement of the coverage.
- (4) A professional liability insurance carrier is not liable with respect to any claim that is based on professional conduct, including any failure to take any action in a professional capacity of a person that occurs during a period of suspension of that person's professional liability insurance under this section. For the purposes of the preceding sentence, a claim based upon the failure of a professional to make adequate provision for patients to be cared for during the period of the professional's military service is considered an action or failure to take action before the beginning of the period of suspension of professional liability insurance under this section, except in a case in which professional services were provided after the date of the beginning of the period.
- (5)
- (a) Professional liability insurance coverage suspended in the case of any service member pursuant to Subsection (2) shall be reinstated by the insurance carrier on the date on which the service member transmits to the insurance carrier a written request for reinstatement.
 - (b) The request of a service member for reinstatement shall be effective only if the service member transmits the request to the insurance carrier within 30 days after the date on which the service member's military service is terminated. The insurance carrier shall notify the person of the due date for payment of the insurance premium. The premium shall be paid by the person within 30 days after receipt of the notice.

- (6) The period for which professional liability insurance coverage shall be reinstated for a service member under this section may not be less than the balance of the period for which coverage would have continued under the policy if the coverage had not been suspended.
- (7) An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any service member for the minimum period of the reinstatement of coverage required under Subsection (5) to an amount greater than the amount chargeable for the coverage for the period before the suspension, except to the extent of any general increase in the premium amounts charged by that carrier for the same professional liability coverage for other persons similarly covered by the same insurance during the period of the suspension.
- (8) This section does not:
 - (a) require a suspension of professional liability insurance coverage for any person who is not a person referred to in Subsection (1) and who is covered by the same professional liability insurance as a person referred to in Subsection (1); or
 - (b) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.
- (9) A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a person whose professional liability insurance coverage has been suspended under Subsection (2) shall be stayed until the end of the period of the suspension if:
 - (a) the action was commenced during the period or suspension;
 - (b) the action is based on an act or omission that occurred before the date on which the suspension became effective; and
 - (c) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the person.

Renumbered and Amended by Chapter 44, 2023 General Session

71A-8-105 Reserve member of armed forces -- Leave of absence from employment -- Liability of employers.

- (1) Any member of a reserve component of the armed forces of the United States who, pursuant to military orders, enters active duty, active duty for training, inactive duty training, or state active duty shall, upon request, be granted a leave of absence from employment, but for no more than five years.
- (2) Members of the Utah National Guard or the State Defense Force, when ordered to state military service by the governor, have the same rights and protections as provided by federal law for activation to federal military service for the duration of their state service not to exceed five years.
- (3) General officers of the Utah National Guard or the State Defense Force or other officers appointed to a general officer position, when appointed to state employment by the governor or the adjutant general, have the same rights and protections as provided by federal law for activation to federal military service for the duration of their state appointment, even if the state appointment exceeds five years.
- (4) Upon satisfactory release from state or federal orders, or from hospitalization incidental to the orders, the member shall be permitted to return to the prior employment and have the same rights and protections as provided by federal law for activation to federal military service as it

pertains to seniority, status, pay, and vacation the member would have had as an employee if the member had not been absent for military purposes.

- (5) Any employer who willfully deprives an employee who is absent as a member under this chapter of any of the benefits under this chapter or discriminates in hiring for any employment position, public or private, based on membership in any reserve component of the armed forces, is guilty of a class B misdemeanor.